***THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY**

+ W.P.No.8256 of 2002

%Dated 10.08.2005

Shaik bade, S/o.Shaik pentu,
aged about 49 years,
R/o.D.No.188-34-88, Maharanipeta,
Kummara Veedhi, Visakhapatnam
.. Petitioner

Vs.

$ The District Collector, Visakhapatnam
2. The Joint Collector, Visakhapatnam
3. The Revenue Divisional Officer, Visakhapatnam
4. Mandal Revenue Officer, Anandapuram Mandal,
Visakhapatnam District.
.. Respondents

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! Counsel for the Petitioner: Mr.O.Manohar Reddy

^Counsel for the Respondents 1to 4: G.P. for Revenue

? Cases referred

1. 1999 ALT (Rev.) 611

2. 1995(1) An.W.R. 15

HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

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W.P.No.8256 of 2002

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Dated 10th August, 2005

Between:

Shaik Bade, S/o.Shaik Pentu,

Aged about 49 years,

R/o.D.No.188-34-88, Maharanipeta,

Kummara Veedhi, Visakhapatnam

.. Petitioner

and

The District Collector, Visakhapatnam and

others.

.. Respondents

HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

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W.P.No.8256 of 2002

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ORAL ORDER:

1. This writ petition has been filed by Shaik Bade with a prayer to issue a writ of mandamus declaring the action of the respondents in interfering with the possession of the petitioner in respect of the land in S.Nos.77/2 and 78/1 admeasuring Ac.2.95 cents and Ac.1.98 cents respectively of Gudilova village, Anandapuram Mandal, Visakhapatnam District, as illegal and arbitrary.

2. One Pilla Venkateswarulu Reddy, an ex-serviceman, was the assignee of Ac.2.95 cents of land in S.No.77/2 and Ac.1.98 cents of land in S.No.78/1 of Gudilova village, Anandapuram Mandal, Visakhapatnam District. The said assignment was made in his favour on 23.1.1969. Under G.O.Ms.No.1117 Revenue (Assignment-1) Department dated 11.11.1993, alienation of the assigned land in favour of the ex-serviceman is prohibited for a period of ten years from the date of issue of O.K.Patta. The petitioner purchased the land from the original assignee under a registered sale deed dated 22.4.1998. When the 4th respondent-Mandal Revenue Officer attempted to interfere with the petitioner's possession over the land in question, he has filed this writ petition by invoking the jurisdiction under Article 226 of the Constitution of India.

3. The 4th respondent filed counter affidavit wherein he stated that a show cause notice was issued to the original assignee in the year 2001 and subsequently, the land came to be resumed to the Government. Therefore, the writ petition is devoid of merits and the same is liable to be dismissed.

4 . Heard the learned counsel for the petitioner and the learned Government Pleader for Assignment appearing for the respondents.

5. It is no more in dispute that Pilla Venkateswarulu Reddy was the original assignee of the land in question. The assignment in his favour was on 23.1.1969. Under G.O.Ms.No.1117 Revenue (Assignment-I) Department dated 11.11.1993, alienation of the assigned land in favour of the ex-servicemen is prohibited for a period of ten years from the date of issuance of O.K. Patta. It is needless to state that since assignment in favour of Pilla Venkateswara Reddy being on 23.1.1969, ban period on alienation has been expired by 1979 itself and thereafter he became entitle to alienate the subject land.

6. The learned counsel for the petitioner submits that the petitioner purchased the land from the original assignee in the year 1998 under a registered sale deed and therefore, the sale is in conformity with the terms of G.O.Ms.No.1117 Revenue (Assignment-I) Department dated 11.11.1993. In support of his submission, reliance has been placed on the decisions of our High Court in ***V.Sreeramulu Vs Sub-Registrar, Tirupati and Another*** and ***A.V.Balakrishna Reddy Vs. The District Collector, Chittoor and Others*** wherein it has been held that an assignee who is an ex-serviceman is not prohibited to sell the assigned lands after ten years from the date of issuance of patta.

7. The learned Government Pleader for Assignment submits that a show cause notice was issued to the original assignee in the year 2001 and thereafter, the land came to be resumed to the Government.

8. The writ petitioner seriously disputed about the resumption of land to the Government. The respondents have not placed any material on record to show that the subject land has been resumed to the Government. Therefore, I find it difficult to accept the contention of the learned Government Pleader that the land has been resumed to the Government. Admittedly, the assignment was made in the year 1969. By that time the original assignee executed a sale deed in favour of the writ petitioner, nearly 30 years have been elapsed from the date of assignment. Such is the case, the sale in favour of the petitioner is in conformity with the terms of G.O.Ms.No.1117 Revenue (Assignment-I) Department dated 11.11.1993. Therefore, the action of the respondents in interfering with the possession of the petitioner is wholly unjustified and arbitrary.

10. Accordingly, the writ petition is allowed. No costs.

10.08.2005

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